



Docket No. 1793.1189

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:

Hai JIN et al.

Application No.: 10/763,422

Group Art Unit: 2443

Confirmation No. 4539

Filed: January 26, 2004

Examiner: Mark D. Fearer.

For: VIDEO SPLITTING AND DISTRIBUTED PLACEMENT SCHEME FOR CLUSTERED
VIDEO SERVERS

REPLY BRIEF UNDER 37 C.F.R §§ 41.41

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

Entry of this Reply Brief is respectfully requested. This Reply Brief is submitted in response to the Examiner's Answer mailed August 2, 2010 ("Examiner's Answer") in reply to the Appeal Brief filed May 24, 2010 ("Appeal Brief").

I. STATUS OF CLAIMS

Claims 1-27 are pending in this application at the filing of this Reply Brief. Appealed claims 1, 2, 4-7, 9-15, 17-20 and 22-27 have been at least twice rejected and are appealed. Claims 3, 8, 16 and 21 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form. Claims 1-27 are the only pending claims in the subject application.

II. GROUNDS OF REJECTION

The rejection of claims 1, 5-7, 11, 14, 18-20, 24 and 27 under 35 U.S.C. § 103(a) over U.S. Patent No. 5,668,948 to Belknap et al. in view of U.S. Publication No. 2002/0145702 to Kato et al. and further in view of U.S. Patent No. 4,680,630 to Field is to be reviewed on appeal.

The rejection of claims 2, 4, 9, 10, 12, 13, 15, 17, 22, 23, 25 and 26 were rejected under 35 U.S.C. §103(a) over Belknap, Kato, Field and U.S. Publication No. 2003/0236912 to Klemets et al. is to be reviewed on appeal.

The Examiner introduces a new grounds of rejection of claims 14-26 under 35 U.S.C. §101, which is not to be received on appeal.

III. REPLY ARGUMENT

Regarding the new § 101 grounds of rejection, it is respectfully submitted that a signal is not transitory. In particular, a signal has to be persistent and of a sustainable duration such that it can be processed at a receiving end. If the signal is not of a sustainable duration at a receiving end, then it would not be possible to processed to, for example, perform a method. Thus, in order for a computer readable medium to be encoded with instructions for performing a method of splitting and allocating streaming media source files, then the signal must necessarily be sustained for a duration of time at the receiving end. As such, a signal is not, *per se*, transitory if the signal is encoded with processing instructions for performing a method because the method is not able to be performed unless the signal is sustained for a duration of time.

As to the § 103 rejections, beginning on page 23 of the Examiner's Answer, the Examiner is rebutting Appellants' argument from the Appeal Brief that Belknap as modified by Kato and Field does not suggest processing a client's requirement to obtain a splitting requirement, where a user's requirements therefore specify whether the clip placement is to be based on clip time or based on quantity of clip splitting.

The Examiner alleges that Belknap teaches a method wherein an incoming data file is split into segments, interpreted to read on the claimed clip, and spread across one or more storage nodes, depending on the material density and the number of simultaneous users of the data, interpreted to read on the claimed quantity splitting requirement affecting the placement of the data on the storage nodes.

While Belknap discusses that the incoming data file is broken into segments and the placement of the data on the storage nodes 16, 17 is affected based on the number of users and the material density, Belknap does not suggest that a splitting requirement is processed to specify whether the clip placement is to be based on clip time or based on quantity of clip splitting. Belknap is only concerned with the placement of data on nodes, i.e., increased density or simultaneous users implies the use of more storage nodes for capacity and bandwidth. However, adding more storage nodes for placement of the data is not a splitting requirement as to whether the clip placement is to be based on clip time or based on quantity of clip splitting, i.e., between either (1) clip placement based on clip time or (2) clip placement based on quantity of clip splitting. Regardless of the client's requirements, Belknap only suggests how the segments of the data file are spread to different nodes, but not whether the splitting is a clip placement based on clip time or a clip placement based on quantity of clip splitting. Belknap

only discusses a quantity of how many data file segments are to be spread to each of the storage nodes. However, Belknap is not suggestive of determining from a client's requirement as to the manner in which the files are to be split – whether based on clip time or based on quantity of clip splitting. Any analysis of the client's requirements is only used to determine how the segments are spread to the storage nodes, but the analysis of the client's requirements does not obtain a splitting requirement. Merely, the client's requirements are used to determine how the data is to be placed on the storage nodes, but not how the data is to be split in the first place.

Further, the Examiner alleges that the Kato reference teaches a method of analyzing a data stream and encoding said stream that is destined for an audio or a video decoder, interpreted to read on the claimed client, and that Kato further teaches a method wherein said encoded stream is expanded on a time axis, using a clip information file to determine where to start the stream, interpreted to read on the claimed clip time splitting requirement.

While Kato discusses that a user is able to edit an AV stream and that a clip AV stream file is expanded on a time axis and time stamps indicating access points to specific clips, Kato does not discuss or suggest a splitting requirement, which is the manner in which the source files are split, between clip placement based on clip time and clip placement based on quantity of clip splitting. Kato merely discusses that clips are identifiable based on time stamps, for example. However, Kato does not suggest that a splitting requirement is obtained based on a client's requirements, where the splitting requirement identifies how, or the manner in which, source files are split. In particular, Kato only suggests splitting files into clips based on time. Kato does not, however, suggest that a client's requirements are analyzed to determine how the clip files should be split – i.e., clip placement based on quantity of splitting or based on clip time. Kato only discusses that the files are split into clips based on time.

In addition, merely noting that one reference suggests clip placement based on clip time and that another reference suggests clip placement based on quantity of clip splitting does not suggest that a client's requirements are analyzed to determine which one of clip placement based on clip time and clip placement based on quantity of clip splitting, are to be used for the particular client. Specifically, neither Belknap nor Kato suggest analyzing a client's requirement to obtain a splitting requirement which is either clip placement based on clip time and clip placement based on quantity of clip splitting. Belknap and Kato do not suggest how a client's requirement are analyzed to determine which one of the splitting requirement options should be used. Belknap only discusses how segments of the data file are spread to different nodes, and Kato only discusses that files are able to be split into clips based on time. However, neither

Belknap nor Kato suggest that the client's requirement are analyzed to determine which one of the splitting requirements should be used for that client.

The Examiner alleges that Kato and Belknap suggest analyzing a client's requirements. However, while Belknap may analyze the material density and the number of simultaneous users of the data to determine how the segments should be spread to all of the storage nodes, Belknap does not suggest analyzing the material density and the number of simultaneous users of the data to determine a splitting requirement for the manner in which the media source files are split – i.e., clip placement based on clip time or clip placement based on quantity of clip splitting. Belknap only suggests how the file segments are spread, not how the data file is initially broken up into file segments.

In addition, it is to be noted that the Examiner's Answer failed to address Field, which is not directed to splitting streaming media files into clip files, but is directed only to producing a television image by line and field sequential scanning. Thus, it is reasserted that Field fails to discuss or suggest "...to obtain a splitting requirement of the streaming media source files into clip files, the splitting requirement being the manner in which the media source files are split."

Further, as Field is directed to an entirely different type of splitting from clip file splitting – processing a digital video signal to produce sequential scanning for a television image – modifying Belknap and Kato in view of Field would change the principle of operation of Belknap, as Belknap is directed to breaking an incoming data file into segments to be spread across one or more storage nodes, and the even and odd samples in Field cannot be separated and spread to, for example, other storage nodes.

Therefore, as the combination of the teachings of Belknap, Kato and Field do not suggest all the features of independent claims 1, 14 and 27, claims 1, 14 and 27 patentably distinguish over the references relied upon.

In addition, Klemets fails to make up for the deficiencies in Belknap, Kato and Field.

Thus, the combination of Belknap, Kato, Field and Klements does not suggest all the features of dependent claims 11, 12, 24 and 25, claims 1, 11, 12, 14, 24, 25 and 27 patentably distinguish over the references relied upon.

Claims 2, 4-7, 9, 10, 13, 15, 17-20, 22, 23 and 26 depend either directly or indirectly from independent claims 1 and 14. Therefore, claims 2, 4-7, 9, 10, 13, 15, 17-20, 22, 23 and 26 patentably distinguish over the references relied upon for at least the reasons claims 1 and 14 patentably distinguish over the reference relied upon.

IV. CONCLUSION

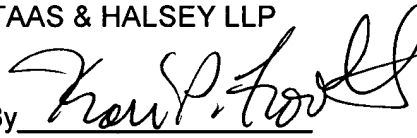
In view of the law and facts stated herein, the Appellants respectfully submit that the Examiner has failed set forth a *prima facie* obviousness case against the pending claims.

For all the foregoing reasons, the Appellant respectfully submits that the cited prior art does not teach or suggest the presently claimed invention and that the Examiner's findings of unpatentability regarding claims 1-38 should be reversed and the patentability over the presently cited references be affirmed.

The Commissioner is hereby authorized to charge any additional fees required in connection with the filing of this Reply Brief to our Deposit Account No. 19-3935.

Respectfully submitted,

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